

**REMARKS**

Entry of this amendment, and reconsideration and allowance of this application, as amended, is respectfully requested.

This amendment is in response to the final Office Action dated April 7, 2008. By the present amendment, the claims have been amended to clarify the distinctions over the primary reference to Akiyama (USPub. 2003/0033492), which is the primary reference in the 35 USC §103 rejection. Accordingly, reconsideration and removal of that rejection is requested for the reasons set forth below.

Specifically, by the present amendment, the claims have been amended to particularly define that when data written back to a first memory bank cannot be accepted by the first memory bank due to a write operation, the data is written back to a second memory bank which is different than the first memory bank. It is respectfully submitted that the amendment clearly defines the difference of the present invention from the arrangement taught by Akiyama, as will be discussed below.

With regard to Akiyama, the last paragraph of the independent claims 1 and 20 (now amended) has been indicated as being readable on paragraph [0058] of the Akiyama reference. In other words, the Office Action states that the claimed feature of writing data back to a second memory bank rather than the first memory bank, when the first memory bank cannot accept an access from the outside, is met by paragraph [0058] of Akiyama. It is respectfully submitted that a careful review of paragraph [0058] of Akiyama, particularly as amended, clearly leads to the

conclusion that the operation of Akiyama is completely different than that defined by the amended claim.

In particular, paragraph [0058] of Akiyama defines the feature of that patent that when there is invalid data in the entry at a cache miss, the invalid data will not be written back but, instead, other data will be written back to write data "e" of bank 8 into the entry, irrespective as to whether the bank 8 is accessible (e.g., refreshed) or not. As such, there is no teaching of writing data back to a second memory bank, different from the first memory bank, when the first memory bank cannot accept access from the outside. Further, it is respectfully submitted that there is absolutely nothing that Akiyama teaches that would lead one to write data back to a second memory bank, rather than a first memory bank, when the reason that the first memory bank cannot accept the access from the outside is due to a write operation. With regard to this, it is noted that in Akiyama, the bank 4 is a bank to be written back, and invalid data is not written in the write back operation at bank 4. As such, there is nothing in Akiyama which teaches writing data back to a different memory bank when a first memory bank cannot accept an access from the outside due to a write operation.

By virtue of these amendments to the independent claims, it is respectfully submitted that the distinction of the present invention over Akiyama is clearly set forth. Further, it is respectfully submitted that nothing in the secondary cited references makes up for this shortcoming in the primary reference to Akiyama in meeting the prior art. Therefore, reconsideration and removal of the prior art rejection based on Akiyama is earnestly solicited.

Entry of this amendment is respectfully requested, notwithstanding the finality of the Office Action. With regard to this, it is respectfully submitted that the present amendment is directed to clarification of features already argued with regard to the

claims. In other words, the claims are amended to more clearly correlate the claim language with features previously argued and considered by the Examiner. For example, on page 7 of the Office Action, the Examiner specifically refers to paragraph [0058] concerning the requested address and the writing back of data back to the bank 4. The present amendment clarifies the distinction over this point raised in the Office Action by emphasizing that the reason that the first memory bank cannot accept the access is due to a write operation, and, in such an instance, the data is written back to a second different memory bank from the first memory bank that cannot accept the access. Since the Examiner has apparently already considered and searched for writing back data when a memory bank cannot accept an access, it is respectfully submitted that the clarifying amendment should not require further search or substantial consideration by the Examiner. Further, it is respectfully submitted, that these distinguishing amendments should place the application in condition for allowance or, at a minimum, clarify the issues for appeal. Therefore, entry of this amendment either for purposes of placing the application in condition for allowance or clarifying the issues for appeal is earnestly solicited.

If the Examiner believes that there are any other points which may be clarified or otherwise disposed of either by telephone discussion or by personal interview, the Examiner is invited to contact Applicants' undersigned attorney at the number indicated below.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to the Antonelli, Terry, Stout & Kraus,

LLP Deposit Account No. 01-2135 (Docket No. 500.43581X00), and please credit any excess fees to such deposit account.

Respectfully submitted,  
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